



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HEDGEYE RISK MANAGEMENT, LLC,

Plaintiff,

- against -

DARIUS DALE,

Defendant.
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21-CV-3687 (ALC) (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

As discussed during the discovery conference held on October 13, 2021, the matters raised at Dkt. 113-115 and 120-21 are resolved as follows (except to the extent denied without prejudice during the conference):

1. The parties shall meet and confer and submit a revised proposed discovery schedule by **October 20, 2021**.

2. Defendant shall provide an amended response to Plaintiff's interrogatory asking for identification of 42 Macro's paying customers. Plaintiff shall provide the amended response by **October 20, 2021**.

3. Defendant shall produce iterations of source files created after June 1, 2021, one for each month through the present.

4. So that Defendant may conduct forensic analysis, Plaintiff shall produce electronic versions of what it claims are trade secrets that exist in electronic form.

5. On September 17, 2021, the Court ordered Plaintiff to amend its response to Defendant's Second Set Of Interrogatories, which asked Plaintiff to identify with particularity each and every alleged trade secret Plaintiff claims that Defendant

misappropriated. (See Dkt. 103.) Plaintiff served its amended response on October 11, 2021 (the “Amended Response”). (See Dkt. 125-1.) Defendant expressed concern that the Amended Response still does not sufficiently identify the claimed trade secrets. The Court shares that concern. During the conference, Plaintiff indicated that it could not further specify its trade secrets. Accordingly, separate and apart from customer lists and composition notebooks, and after substantial discussion of the topic during the conference and earlier conferences, the Court finds that the alleged trade secrets identified by Plaintiff are (1) the entirety of each source file identified by Plaintiff on page 4 of the Amended Response under “Trade Secret Software Files and Their Contents”; and (2) Exhibit A to the Amended Response. Unless based on newly produced information from Defendant, and subject to prompt disclosure by Plaintiff, Plaintiff shall be precluded from claiming as an independent trade secret any sub-portion of the entirety of each source file or Exhibit A. To be clear, Plaintiff is not precluded from arguing that Defendant misappropriated any one of Plaintiff’s alleged trade secrets by misappropriating a sub-portion of that trade secret.

SO ORDERED.



ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: October 14, 2021
New York, New York

Copies transmitted this date to all counsel of record.